

UNITED STATES DISTRICT COURT

for the
Western District of North Carolina

United States of America

v.

Damion Miller

a/k/a "D-Moe"

Date of Original Judgment: April 13, 2007

September 16, 2008

Date of Last Amended Judgment: (SEALED)

)

)

)

)

)

)

Case No: 3:05CR339-04

USM No: 21525-058

Ross Richardson

Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☐ the defendant ☐ the Director of the Bureau of Prisons ☒ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ is reduced to _____

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Original Offense Level: 42

Amended Offense Level: 42

Criminal History Category: III

Criminal History Category: III

Original Guideline Range: 360 months to life

Amended Guideline Range: 360 months to life

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

☐ The reduced sentence is within the amended guideline range.

☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing and the reduced sentence is comparably less than the amended guideline range.

☐ The reduced sentence is above the amended guideline range.

☒ Other (explain): Due to the cross-reference to §2A1.1 (First Degree Murder) in Count One, there is no change in the guideline calculations. The application of Amendment 750 provides no change in the guideline calculations in this case.

III. ADDITIONAL COMMENTS

The defendant was also convicted in Count Two of Use, Carry, and Possess a Firearm During and in Relation to a Drug Trafficking Crime and Causing the Death of a Person Through Use of a Firearm and Aiding and Abetting Same, which resulted in a 120 month, concurrent, sentence to Count One of this Indictment.

Except as provided above, all provisions of the judgment dated April 13, 2007, shall remain in effect.

IT IS SO ORDERED.

Order Date: February 14, 2012

Effective Date: _____
(if different from order date)



Frank D. Whitney
United States District Judge

